

**IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

**AMERICAN WATER WORKS COMPANY, INC.
A/K/A AMERICAN WATER WORKS SERVICE
COMPANY, INC., and its subsidiaries,**

Petitioner,

and

No. 14-2703 & 14-2971

NATIONAL LABOR RELATIONS BOARD,

Respondent,

and

**UTILITY WORKERS UNION OF AMERICA,
AFL-CIO,**

Intervenor.

**RESPONSE OF PETITIONER AMERICAN WATER IN OPPOSITION TO
LOCAL 537'S MOTION FOR PERMISSION TO INTERVENE**

Petitioner, **AMERICAN WATER WORKS COMPANY, INC.** (“AWW,” the “Company,” or the “Petitioner”), responds to Utility Workers Union of America, AFL-CIO, System Local 537’s (“Local 537”) motion for permission to intervene as follows:

1. AWW joins the National Labor Relations Board (“NLRB”) and the Utility Workers Union of America, AFL-CIO (“UWUA”) in opposing Local 537’s motion to intervene.
2. The arguments of and authorities cited by the NLRB in support of its opposition, and joined by the UWUA, are cogent and there is no need for AWW to repeat such in this filing.
3. The Court should note most significantly, however, that Local 537 provides no factual or legal basis to unwind the negotiated settlement, thus underscoring that any intervention by Local 537 would be futile. In that regard, Local 537 concedes that the UWUA has had full

authority to act on its behalf in negotiating the terms of pension and insurance benefits and to negotiate a settlement of the dispute with the AWW. Specifically, Local 537 has conceded:

- “[N]egotiations relative to pension benefits and insurance benefits, including medical insurance, have been conducted between the UWUA and representatives of various other national unions ... as representatives of the aforesaid local unions [including Local 537] and their members” (Local 537 Motion to Intervene, ¶ 10).
- “In the case of Local 537 and the other local unions of the UWUA, the UWUA has been designated as the representative of the local unions to negotiate with regard to pension, insurance and welfare benefits.” (Local 537 Motion to Intervene, ¶ 11).
- “[T]he UWUA and the other national unions on behalf of their local unions, entered into settlement agreement regarding the issues outstanding in the aforesaid unfair labor practice charge [related to the national benefits bargaining disputes].” (Local 537 Motion to Intervene, ¶ 21).

4. Because the UWUA was its representative and agent, Local 537 was bound by the agreements negotiated between the UWUA and AWW, and further AWW was entitled to rely on the authority of the UWUA to act on behalf of Local 537. See *Moriarty v. Gluekert Funeral Home, Ltd.*, 155 F.3d 859 (7th Cir. 1998) (explaining application of federal common law agency principles in collective bargaining context). Further, because the UWUA was authorized to negotiate on behalf of Local 537 and otherwise represent it in connection with multi-union bargaining, neither Local 537 nor any other party was entitled to withdraw from the arrangement absent consent of all other bargaining participants. See *District Council of Painters No. 8*, 326 NLRB 1074, 1079 (1998) (citing, inter alia, *Charles D. Bonanno Linen Service, Inc. v. NLRB*, 454 U.S. 404 (1982)).

5. Local 537, in its motion, provides no authority indicating that it is not bound by the settlement reached by the UWUA and that AWW was not entitled to rely on such settlement. Accordingly, intervention by Local 537 in this matter would be futile in light of the settlement.

WHEREFORE, based on the above undisputed facts, arguments and authorities, and those set forth in the responses of the NLRB and UWUA, Petitioner American Water Works Company, Inc., respectfully requests that the Court deny Local 537's Motion for Permission to Intervene.

Respectfully submitted:

/s/ Anthony B. Byergo

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CERTIFICATE OF SERVICE

The undersigned certifies that on the 2nd day of December, 2014, pursuant to Circuit Rule 25, the above and foregoing document was filed with the Clerk of Court via the CM/ECF system, which sent service notification of such to the following:

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